IN THE

Supreme Court of the United States

OCTOBER TERM, 1960.

No. .....

VI MURPHY,

Petitioner,

v.

PEOPLE OF THE STATE OF COLORADO,

Respondent.

PETITION FOR A WRIT OF CERTIORARI.

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January 23, 1961

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TO THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Vi Murphy prays that a writ of certiorari issue to review two orders of the Supreme Court of the State of Colorado.

The first order below convicted petitioner of contempt of court and ordered her committed. Petitioner, a newspaper reporter, had declined, in a proceeding to suspend an attorney from practice pending disbarment proceedings, to disclose the confidential source of an advance copy of a petition filed by the attorney in the Supreme Court of the State of Colorado. The petition, the substance of which was later published by the reporter in The (Colorado Springs) Gazette Telegraph, charged a former judge of the Colorado Supreme Court with accepting a bribe. The second order below denied a "Petition to Vacate Contempt

Order" filed by petitioner. The court below rendered no opinion with respect to either of these orders.

This is the first case in which a state court has ever ordered the forced disclosure of confidential news sources against the claim that such forced disclosure would violate the Constitutional guarantee against state action of freedom of the press.* It is only the second case ever holding that a court's power to compel testimony in judicial proceedings overrides rights arising from the protection afforded to freedom of the press by the First Amendment. *Garland* v. *Torre*, 259 F. 2d 545 (2d Cir. 1958), *cert. denied*, 358 U. S. 910.

Jurisdiction.

The court's order holding petitioner in contempt and imposing sentence (Tr. 61-2**) is dated and was entered on October 26, 1960 and is printed as Appendix A hereto.

On October 31, 1960, petitioner filed in the Colorado Supreme Court her "Petition to Vacate Contempt Order" (Tr. 70-72), which is printed as Appendix B hereto. That petition was denied by order (Tr. 122-3) of the Colorado Supreme Court dated and entered November 3, 1960, which order is printed as Appendix C hereto.

Jurisdiction of this Court is invoked under 28 U. S. C. §1257(3).

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* It is not, however, the first state case in which the disclosure of confidential news sources has been compelled. See cases cited at pp. 20-21, *infra*.

** Page references to the transcript of hearings below are introduced by the abbreviation "H. Tr."; references to the transcript of the remainder of the record are introduced by the abbreviation "Tr."

Questions Presented.

1. May a state court constitutionally impose restraints on the gathering of news, in view of the protection against state action afforded freedom of the press by the Fourteenth Amendment?

2. Does not the Fourteenth Amendment forbid the imposition of sanctions by a state court to compel disclosure of confidential news sources at least in the case where

— there has been no showing of great public necessity for the disclosure, and

— the disclosure sought to be compelled is not material or of substantial probative value to the proceeding in which it is sought?

Constitutional Provisions Involved.

The Constitutional provisions pertinent to this petition are the First Amendment and the Fourteenth Amendment, Section 1, to the Constitution of the United States:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment XIV

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof,